

Revised: April 22, 2021

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		:
Keller,		:
	Plaintiff(s),	: No. <u>21-cv-10905</u> (AJN) (SDA)
		:
	-against-	:
		:
NewYork-Presbyterian Hospital, et al.		:
	Defendant(s).	:
		:
-----X		:

REPORT OF RULE 26(f) MEETING AND PROPOSED CASE MANAGEMENT PLAN

In accordance with Federal Rule of Civil Procedure 26(f), counsel for the parties spoke on April 4, 2022 and exchanged communications thereafter, and submit the following report of their meeting for the court's consideration:

1. Summary of Claims, Defenses, and Relevant Issues

Plaintiff:

Please see the annexed supplement for the Parties' summary of claims, defenses and issues.

Defendant:

Please see the annexed supplement for the Parties' summary of claims, defenses and relevant issues.

2. Basis of Subject Matter Jurisdiction: Federal question and diversity

Revised: April 22, 2021

3. Subjects on Which Discovery May Be Needed

Plaintiff:

Discovery will be needed on the motivations for the adverse acts to which Plaintiff was subjected, the handling of her complaints by Defendants, including any investigations performed by Defendants, and the rationale for the suspension of her privileges and the negative reports to the National Practitioners' Database

Defendant:

Discovery will be needed regarding, inter alia, Plaintiff's misconduct, Plaintiff's basis for her allegations, including but not limited to, her claims that NYPH and Columbia are joint employers, her purported damages, including claims for alleged emotional distress and her failure to mitigate.

4. Initial Disclosures

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was disclosed by Plaintiff(s) on n/a. In addition, on n/a, Plaintiff(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was disclosed by Defendant(s) on n/a. In addition, on n/a, Defendant(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

5. Formal Discovery

The parties jointly propose to the Court the following discovery plan:

a. All fact discovery must be completed by ^{180 days from the conclusion of an} unsuccessful mediation.

b. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court,

Revised: April 22, 2021

provided that the parties meet the deadline for completing fact discovery set forth in 5(a)

above.

- i. Depositions: Depositions shall be completed by ^{22 weeks}~~mediation~~ after and limited to no more than 10 depositions per party. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
- ii. Interrogatories: Initial sets of interrogatories shall be served on or before ^{14 days after mediation}~~mediation~~ All subsequent interrogatories must be served no later than 30 days before the discovery deadline.
- iii. Requests for Admission: Requests for admission must be served on or before 30 days before the end of fact discovery
- iv. Requests for Production: Initial requests for production were/will be exchanged on ^{14 days after}~~mediation~~ and responses shall be due on 30 days after service. All subsequent requests for production must be served no later than 30 days before the discovery deadline.
- v. Supplementation: Supplementations under Rule 26(e) must be made within a reasonable period of time after discovery of such information.

6. **Anticipated Discovery Disputes**

Are there any anticipated discovery disputes? Does either party seek limitations on discovery? Describe.

_____ The parties agreed that there will be a need for a comprehensive protective order.

7. **Amendments to Pleadings**

- a. Are there any amendments to pleadings anticipated? None
- b. Last date to amend the Complaint: 10 days after mediation

Revised: April 22, 2021

8. Expert Witness Disclosures

At this time, the parties do do not (circle one) anticipate utilizing experts. Expert
 Insofar as the Parties anticipate any expert discovery
 discovery shall be completed by _____ will be related solely to damages issues, _____.

9. Electronic Discovery and Preservation of Documents and Information

- a. Have the parties discussed electronic discovery? Yes
- b. Is there an electronic discovery protocol in place? If not, when the
 The Parties anticipate finalizing a protocol within 7 days from
 parties expect to have one in place? the service of discovery requests
- c. Do the parties want the Court to enter a Rule 502(d) Order? (see [Rule 502\(d\) Order](#))
 Yes _____ No X
- d. Are there issues the parties would like to address concerning preservation
 of evidence and/or electronic discovery at the Initial Case Management Conference?

No**10. Anticipated Motions**

Defendants anticipate making motions for summary judgment.

11. Early Settlement or Resolution

The parties have/have not (circle one) discussed the possibility of settlement. The parties
 request a settlement conference by no later than n/a. The following
 information is needed before settlement can be discussed:

The Parties are participating in the Court's mediation program for employment
cases.

12. Trial

- a. The parties anticipate that this case will be ready for trial by _____.

60 days after the later of the close of expert
 discovery or the disposition of a motion for
 summary judgment.

Supplement to Report of Rule 26(f) Meeting and Proposed Case Management Plan

1. Summary of Claims, Defenses and Relevant Issues

Plaintiff:

Plaintiff is asserting claims under Title VII, the New York State Human Rights Law and the New York City Human Rights Law of discrimination on the basis of her gender and retaliation against Defendants NewYork-Presbyterian Hospital (“NYP” or the “Hospital”), Trustees of Columbia University based in the City of New York (“Columbia” or the “University”) and Dr. Pokala Ravi Kiran arising out of her employment as an Instructor of Surgery at the Columbia University Medical Center and Hospital under the supervision of Dr. Kiran. In particular, Plaintiff asserts that she was jointly employed by the Hospital and Columbia University, that she was discriminated against on the basis of her gender by her supervisor Dr. Kiran, who is individually liable under state and local law, as well as other executives of the Hospital and the University, and that Defendants retaliated against her for her protected complaints by, *inter alia*, providing her less favorable work assignments and staff support, declining to renew her employment agreement, suspending her privileges at the Hospital, cutting her salary, and filing adverse public reports against her with the National Practitioners’ Database for an incident for which she was individually blameless and for which her male colleagues were not similarly reprimanded.

Defendants Columbia and Dr. Kiran (“Columbia Defendants”):

Columbia Defendants deny Plaintiff’s allegations of gender discrimination and retaliation. Plaintiff was hired by Columbia as an Assistant Professor of Surgery at Columbia University Medical Center for a two-year term ending June 30, 2020 and was granted clinical privileges as an Assistant Attending Surgeon at NYP in connection with her employment with Columbia. On December 9, 2019, Columbia informed Plaintiff that her appointment would not be renewed and

her employment would terminate on June 30, 2020. Prior to the conclusion of her appointment, NYP determined that Plaintiff had engaged in unprofessional conduct in violation of NYP policies and revoked Plaintiff's clinical privileges to practice medicine at NYP. Columbia Defendants had no role in suspending Plaintiff's privileges at the Hospital or in filing reports about her with the National Practitioners' Database. Once Plaintiff's privileges were revoked by NYP, Columbia reduced her salary proportionally due to her inability to engage in clinical activity. The Columbia Defendants' actions regarding Plaintiff were based upon legitimate, non-discriminatory reasons unrelated to Plaintiff's sex, gender and/or protected activity.

Defendant The New York and Presbyterian Hospital:

The Hospital denies there is any factual or legal basis for Plaintiff's claims of gender discrimination and retaliation against it. As an initial matter, neither Plaintiff nor individual defendant Dr. Ravi Kiran was employed by the Hospital; they were both employed by Columbia. Columbia set their salaries, benefits, and terms and conditions of employment and was responsible for Plaintiff's hiring and termination of employment, not the Hospital. Plaintiff did not complain to the Hospital about Dr. Kiran and has no basis to allege retaliation or discrimination against it for suspending her privileges. Plaintiff's privileges at the Hospital were suspended and then terminated because of her serious egregious misconduct. This determination regarding Plaintiff's privileges was upheld pursuant to a hearing before a Medical Review Board. In sum, the Hospital's actions regarding Plaintiff were not employment decisions and were based upon legitimate, non-discriminatory reasons unrelated to Plaintiff's sex, gender and/or protected activity.